

**Collective Bargaining Agreement (CBA) for Independent Direct Support Providers:
Facts and Frequently Asked Questions (FAQs)
July 3, 2014**

A. Background:

In 2013 the Vermont Legislature passed Act 48, authorizing collective bargaining between independent direct support providers and the State of Vermont. This Act amended Title 21 of the Vermont Statutes, including definitions that establish the scope of collective bargaining for independent direct support providers.

21 V.S.A. § 1637 provides the following:

(6) “Independent direct support provider” means any individual who provides home- and community- based services to a service recipient and is employed by the service recipient, shared living provider, or surrogate. *(Note: The term “Provider” is used throughout this document to describe these workers.)*

...

(8) “Service recipient” means a person who receives home- and community-based services under the Choices for Care Medicaid waiver, the Attendant Services Program (ASP), the Children’s Personal Care Service Program, the Developmental Disabilities Services Program, or any successor program or similar program subsequently established.

Establishment of a Self-Determination Alliance:

(a) There is established a Self-Determination Alliance to advise the State on issues related to stabilizing the independent direct provider workforce and improving the quality of services provided to people with disabilities and elders who manage their services. The alliance shall consist of:

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) The Commissioner of Health or designee;

(3) Two service recipients who manage their services under Developmental Disabilities Services, two service recipients who manage their services under Choices for Care Medicaid Waiver, and two recipients who manage their services under Attendant Services Program (ASP), and one service recipient who manages his or her services under the Traumatic Brain Injury Program.

(4) One family member of a service recipient under Children’s Personal Care Program and one family member of a service recipient under Developmental Disabilities Services.

...

(c) The Self-Determination Alliance shall advise the State regarding issues relating to attracting and retaining a high-quality independent direct support provider workforce to be available to all service recipients, including making recommendations to improve the quality, stability, and availability of the independent direct support provider workforce.

(d) The Secretary of Human Services shall review the recommendations of the Self-Determination Alliance within 30 days of submission, and shall include the recommendations with his or her input to the Governor’s collective bargaining designee.

The Act is available online at this link: <http://www.leg.state.vt.us/docs/2014/Acts/ACT048.pdf>

In October 2013 the Vermont Labor Relations Board (VLRB) conducted an election that certified Vermont Homecare United, American Federation of State, County and Municipal Employees (AFSCME) Council 93, Local 4802 as the sole and exclusive representative of the Independent Direct Support Providers for collective bargaining with the State of Vermont.

In December 2013 the State of Vermont and AFSCME began collective bargaining negotiations. A collective bargaining agreement was signed on June 12, 2014. The agreement is available online at this link:

<http://humanservices.vermont.gov/news-info/collective-bargaining-agreement-between-the-state-of-vermont-and-afscme-relating-to-independent-direct-support-providers/>

B. What does the collective bargaining agreement (CBA) include?

Highlights of the CBA include:

1. **Minimum hourly wage:** As of the first full pay period following July 1, 2014, the minimum hourly wage for all covered Provider services shall be ten dollars and eighty cents (\$10.80) per hour. All covered Providers must be paid at least this rate.
2. **Other hourly wage increases:** As of the first full pay period after July 1, 2014, wages paid to Providers who are paid a fixed wage (a wage established by the State) will be increased by two and one-half percent (2.5%) or to \$10.80, whichever is higher. Providers in Hourly Rate Flexible Wage Programs (through Choices for Care 'Flexible Choices', Children's Personal Care Services, and Developmental Services) whose wages are not increased to \$10.80 per hour may receive a 2.5% wage increase in accordance with the rules, guidelines and procedures of these programs.
3. **Minimum daily respite payment:** As of the first full pay period following July 1, 2014, Providers who provide daily respite services that include sleep time, and who are paid a daily compensation rate, shall be paid a minimum of one hundred fifty (\$150.00) dollars.
4. **Other daily respite payment increases:** As of the first full pay period following July 1, 2014, Providers in Flexible Daily Rate Respite Programs (through Developmental Services) shall receive at least \$150.00 per day. Providers whose payment exceeds \$150.00 per day may receive a 2.5% wage increase in accordance with the rules, guidelines and procedures of this program.
5. **Union dues:** The Legislature and the CBA give AFSCME authority to secure Union dues from Providers who are Union members. The Union dues are established by the Union at 2% of gross wages. Union dues will be withheld from Provider paychecks by the Fiscal/Employer Agent (ARIS).
6. **Committee:** The CBA establishes a 'State-Provider Cooperation Committee' to discuss potential future changes in compensation rates, financial workforce benefits, payment methods and procedures, Provider registry and referrals, professional development and training, and release time.
7. **Grievances:** The agreement establishes a grievance process within the Agency of Human Services to address Union complaints regarding the improper application of one or more terms of the CBA by the State and/or ARIS, the failure by the State and/or ARIS to abide by any agreement reached and set forth in the CBA, or the discriminatory application of a rule or regulation by the State and/or its Fiscal/Employer Agent, which has not been resolved to a satisfactory result through informal discussion. If not resolved, the Union has a right to appeal to the Vermont Labor Relations Board.

Frequently Asked Questions (FAQs):

1. How do Providers and other people contact the Union?

Contact: Vermont Homecare United - AFSCME
600 Blair Park, Ste. 100
Williston, VT 05495
Toll free: 866-388-9611

2. Do Providers have to join the Union?

No.

3. If Providers do join the Union, will they have to pay Union dues?

Yes. Union dues have been established by the Union at 2% of gross wages. Questions about Union dues should be directed to the Union.

4. If Providers do not join the Union, will they have to pay a collective bargaining service fee?

The parties to the CBA and their attorneys are reviewing the United States Supreme Court decision in Harris v. Quinn, issued on June 30, 2014. Further guidance will be provided once that analysis is complete.

5. Why do employees have to pay Union dues?

The Legislature passed a law that gives the Union the authority to ‘collectively bargain’ on behalf of independent direct support providers. The CBA establishes new minimum wages and wage rates. Employers, the State, the Fiscal/Employer Agent (ARIS), the Union, and Providers **must** all abide by the law and the terms of the CBA.

6. When will Union dues start being withheld?

Union dues cannot be withheld until the Union provides written verification to ARIS and the State that a Provider has authorized the deduction from his or her wages. Deductions will begin as of the first full pay period after July 1, 2014, which is 07/06/14 – 07/19/14 for Choices for Care (including Flexible Choices) and Attendant Services Program and 07/13/14 – 07/26/14 for Developmental Services and Children’s Personal Care Services.

7. Who will get a pay raise?

All Providers earning less than \$10.80 per hour will get pay raises to \$10.80 per hour. All Providers who are paid a ‘fixed wage’ established by the State will receive an increase to \$10.80 per hour or 2.5%, whichever is greater.

For Providers whose wages are established by the State, the current wages and the new wages are:

Program/Service	current hourly wage (June 2014)	new hourly wage (July 2014)
Choices for Care Personal Care by Consumer-Directed Personnel	\$11.00	\$11.28
Choices for Care Personal Care by Surrogate-Directed Personnel	\$11.00	\$11.28
Choices for Care Respite Care or Companion by Consumer-Directed Personnel	\$9.40	\$10.80
Choices for Care Respite Care or Companion by Surrogate-Directed Personnel	\$9.40	\$10.80
Children’s Personal Care Services- fixed wage	\$10.07	\$10.80
Attendant Services Program- Medicaid 1st 6 Months	\$9.56	\$10.80
Attendant Services Program- Medicaid after 6 Months	\$10.12	\$10.80
Attendant Services Program-General Fund 1st 6 Months	\$9.56	\$10.80
Attendant Services Program-General Fund after 6 Months	\$10.12	\$10.80

8. Who may not get a pay raise?

In flexible wage programs (Choices for Care ‘Flexible Choices’, Choices for Care Adult Family Care Respite, Children’s Personal Care Services, and Developmental Services), Provider pay rates are established by employers. These employers will be required to pay at least \$10.80 per hour; raises above \$10.80 per hour may be made at the discretion of employers under the rules, guidelines and procedures of the applicable program. Employers will be required to pay at least \$150.00 per day for daily respite services; raises above \$150.00 per day may be made at the discretion of employers under the rules, guidelines and procedures of the applicable program.

Providers with ‘flexible wages’, whose wages are not established by the State:

Program/Service
Choices for Care ‘Flexible Choices’
Choices for Care Moderate Needs Group ‘Flexible Choices’
Choices for Care Adult Family Care Respite
Children's Personal Care Services ‘flexible wages’
Developmental Services ‘flexible wages’ community supports, in-home supports, and respite

9. Why do we have to give Providers a raise?

The Legislature passed a law that gives the Union the authority to ‘collectively bargain’ on behalf of these independent direct support workers. This collective bargaining produces a formal Collective Bargaining Agreement (CBA). The CBA establishes new minimum wages and wage rates. Employers, the State, the Fiscal/Employer Agent (ARIS), the Union, and Providers **must** all abide by the law and by the terms of the CBA.

10. When will Providers get a pay raise?

Mandatory raises (as described in #7 and 8, above) will be made under the terms of the collective bargaining agreement. Raises will begin during the first complete pay periods after July 1, as follows:

- Choices for Care (including Flexible Choices): pay period 07/06/2014-07/19/2014
- Attendant Services Program: pay period 07/06/2014-07/19/2014
- Developmental Services and Children’s Personal Care Services: pay period 07/13/2014-07/26/2014

11. How will pay raises be paid for?

The Vermont Legislature appropriated \$1,735,000 in General Funds to the Agency of Human Services for wage increases, and directed that any savings from SFY13 in the Choices for Care Program be first used to pay for the cost of wage increases in the CBA. These funds are distributed across the programs to cover the costs of pay raises.

12. How will pay raises be managed?

As the Fiscal/Employer Agent, ARIS is required to enforce the terms of the CBA, as follows:

Attendant Services Program: Increases in fixed wages established by the State. Providers who are paid a fixed rate will receive an increase to \$10.80 per hour. As established by the CBA, all Providers in this program will now be paid the same hourly wage; there will no longer be a 50 cent per hour wage increase after six months of employment.

Choices for Care ‘fixed wage’ services (personal care, respite services, companion services): Increases in fixed wages are established by the State. Providers will receive an increase to \$10.80 per hour or an increase of 2.5% (whichever is greater).

Choices for Care ‘Flexible Choices’: Individual flex choices budgets will be increased to reflect an increase that is proportionate to the increases in CFC fixed wages for personal care, respite services, and companion services.

Children’s Personal Care Services ‘fixed wage’ services: Increases in fixed wages are established by the State. Providers who are paid a fixed wage will receive an increase to \$10.80 per hour.

Children’s Personal Care Services ‘flexible wage’ services: Increases in flexible wage allocations (individual consumer budgets used to pay independent Providers) will be communicated to families through VDH. Providers paid from flexible wage allocations must be paid a minimum hourly wage of \$10.80 per hour. Providers who have been paid more than these minimums may be given raises of 2.5% at the discretion of employers under the rules, guidelines and procedures of this program.

Developmental Services: Increases in flexible wage service budgets (individual consumer budgets for community supports, in-home supports and respite used to pay independent Providers) will be communicated through local agencies (Designated Agency, Specialized Service Agency, or Transition

II.). Providers must be paid the minimum hourly wage of \$10.80 per hour or the minimum daily respite rate of \$150.00 per day. Providers who have been paid more than these minimums may be given raises of 2.5% at the discretion of employers under the rules, guidelines and procedures of this program.

13. What happens if a timesheet is submitted to ARIS with a wage rate below the required minimum?

If a timesheet reflects an hourly rate of less than \$10.80 or a daily rate of less than \$150.00, the State has authorized ARIS to adjust those rates to the CBA minimums without the need to obtain employer authorization.

14. Do employers have to hire Union members?

No. Employers continue to have choice in hiring, including Providers who are members of the Union and Providers who are not members of the Union.

15. Can Providers ‘strike’?

No. 21 V.S.A. § 1637 includes the following:

“(d) An independent direct support provider shall not strike or curtail his or her services in recognition of a picket line of any employee or labor organization.”

<http://www.leg.state.vt.us/docs/2014/Acts/ACT048.pdf>

16. Who will participate in the ‘State-Provider Cooperation Committee’?

Under the terms of the CBA, the Union and the State may each appoint no more than four (4) representatives to serve on the Committee. The Committee shall be formed and shall hold its initial organizational meeting within ninety (90) days following the signing of the CBA.

17. Who will negotiate future collective bargaining agreements?

As established by statute, collective bargaining will continue to involve the State and the Union. While the State-Provider Cooperation Committee is not authorized to conduct collective bargaining or to make any specific amendments to the CBA, it is authorized to make recommendations to improve the relationship between Providers and Service Recipients and between the State and Providers.

18. What is ARIS?

ARIS is the Fiscal/Employer Agent, responsible for managing payroll services in compliance with Federal laws and regulations, State laws and regulations, program rules, guidelines and procedures, and the CBA.

Under the terms of the CBA ARIS is obligated to follow minimum wage requirements, withhold Union dues and engage in related communications with the Union and the State.

Who should I contact if I have questions or for more information?

Questions and requests for information regarding collective bargaining, Union membership, Union dues, and collective bargaining service fees:

Vermont Homecare United - AFSCME
600 Blair Park, Ste. 100
Williston, VT 05495
Toll free: 866-388-9611

Questions and requests for information regarding payment procedures, including minimum wage requirements and withholding of dues:

ARIS Employer/Fiscal Agent
802-295-1658
Toll free: 800-798-1658

Questions and requests for information regarding specific program and service questions including service authorizations, service budgets, and program wage or payment requirements, should be directed to staff who manage specific programs and services:

Attendant Services Program

Mary Collins, DAIL/ASD Attendant Services Program, 802-828-0610

Mary.Collins@state.vt.us

Choices for Care

Megan Tierney-Ward, DAIL/ASD Choices for Care Program, 802-871-3047

Megan.Tierney-Ward@state.vt.us

Children's Personal Care Services

Jennifer Garabedian, VDH Children's Personal Care Program, 802-865-1395

Jennifer.Garabedian@state.vt.us

Developmental Services

Employers and Providers: Contact the local Agency (Developmental Services agency or TransitionII, the Supportive ISO) that oversees the service recipient's budget

Agencies: Contact Clare McFadden, DAIL/DDSD Developmental Services, 802-871-3062

Clare.McFadden@state.vt.us